

# Town of Milton

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Milton, DE 19968



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## ORDINANCE NO. 2018-004

### AN ORDINANCE TO AMEND CHAPTER 174 OF THE TOWN CODE RELATING TO THE RESIDENCY RESTRICTIONS OF SEX OFFENDERS.

**WHEREAS**, Section 29(a)(1) of the Town Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

**WHEREAS**, Section 29(a)(19) of the Town Charter of the Town of Milton vests power in the Town Council to generally to exercise all powers and authorities vested in the legislative body of incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code, as amended; and

**WHEREAS**, Chapter 3, Title 22 of the Delaware Code vests power in the Town Council, for the purpose of promoting health, safety, morals or the general welfare of the community, to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence or other purposes; and

**WHEREAS**, during the 149<sup>th</sup> General Assembly, House Bill 357 entitled "An Act to Amend Title 22 of the Delaware Code Relating to Municipalities" passed both the House of Representatives and Senate, restricting the power of municipalities to impose broader residency and proximity restrictions of sex offenders that those that apply under state law;

**NOW THEREFORE, BE IT ENACTED AND ORDAINED**, by the Mayor and Town Council of the Town of Milton, a majority thereof concurring, that the following amendments to Chapter 174, with additions shown by underlining and deletions shown by strike-through, are hereby incorporated into the Town Code as follows:

#### **§ 174-1. Definitions; word usage.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, the words used in the present tense include the future tense, words in the plural number include the singular number, and works in a singular number include the plural number. The word "shall" is always mandatory and not merely directory.

#### **LOITER**

As defined in Title 11, § 1112 of the Delaware Code.

#### **CHILD-CARE FACILITY**

~~A licensed day care center, a licensed child care facility, or any other child care services facility exempt from licensing pursuant to the laws of the State of Delaware.~~

#### **PARK**

~~Any land, or tract of land, or facility used for passive or active recreation, including, but not limited to, playgrounds, parks, skate parks, athletic fields, and any other facility owned or operated by the Town of Milton, Sussex County, or the State of Delaware.~~

**RESIDE**

~~To occupy, or stay overnight in a particular parcel of the real property for a period greater than 14 days within a one year period. A sex offender may have more than one residence that meets this definition of "reside" at the same time. As defined in Title 11, § 1112 of the Delaware Code.~~

**SCHOOL**

~~Any preschool, kindergarten, elementary school, secondary school, vocational/technical school, or any institution which has as its primary purpose the education or instruction of children under 16 years of age. As defined in Title 11, § 1112 of the Delaware Code.~~

**SEX OFFENDER**

~~Any person As defined in who is registered as a sex offender pursuant to Title 11, Chapter 41, and Subchapter III § 4121 of the Delaware Code.~~

**§ 174-2. Residency restrictions.**

It shall be unlawful for any sex offender to reside, ~~lodge, abide,~~ or ~~live~~ loiter within 500 ~~3,000~~ feet of any school, ~~park, or child care facility~~ located within the Town of Milton. The ~~three thousand foot~~ aforementioned distance shall be measured by following a straight line from the outer property line at the residence or ~~lodging~~ loitering site of the sex offender to the nearest outer property line of the school, ~~park, or child care facility.~~

**§ 174-5. Applicability and severability.**

A. This chapter shall not apply to any sex offender's particular residence which was established prior to the date of adoption of this chapter, November 6, 2006. ~~This chapter shall not apply if the school, park, or child care facility was established subsequent to the establishment of the sex offender's residence.~~

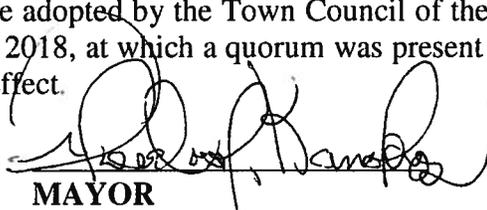
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**SYNOPSIS**

This Ordinance amends Chapter 174 of the Town Code to be in compliance with the Delaware State Legislature's House Bill 357 of the 149<sup>th</sup> General Assembly.

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I, **THEODORE KANAKOS**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the 5th day of November 2018, at which a quorum was present and voting throughout and that the same is still in full force and effect.

  
**MAYOR**